

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

In re:

William Rodriguez, Jr.,

Debtor.

Case No.: 6:19-bk-02624-KJ
Chapter 7

**OBJECTION TO CHAPTER 7 TRUSTEE’S MOTION TO (I) APPROVE SHORT SALE
OF REAL PROPERTY FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES,
AND INTERESTS PURSUANT TO 11 U.S.C. § 363(b), (f), AND (m), (II) SURCHARGE
AGREEMENT BETWEEN SECURED LENDERS AND THE ESTATE, AND (III)
OTHER RELIEF (DOC. NO.: 46)
(*RE: 667 Allerton Way, Sanford, FL 32771*)**

COMES NOW, The Carriage Homes at Dunwoody Commons Condominium Association, Inc., (hereinafter “Association”), by and through undersigned counsel, in response to Chapter 7 Trustee’s Motion To (I) Approve Short Sale of Real Property Free and Clear of Liens, Claims, Encumbrances, and Interests Pursuant To 11 U.S.C. § 363(B), (F), and (M), (II) Surcharge Agreement Between Secured Lenders and the Estate, and (III) Other Relief (Doc. No.: 46) and, in support thereof, states as follows:

1. This Court has jurisdiction of the parties and the subject matter pursuant to the Bankruptcy Code, 11 U.S.C. §§101 *et seq.*, 28 U.S.C. §1334, 28 U.S.C. §157(a) and the standing order of reference entered by the Bankruptcy Court.
2. On April 22, 2019, William Rodriguez, Jr., (“Debtor”), initiated a case seeking relief under Chapter 7 of the Bankruptcy Code.
3. The Association is a creditor by virtue of the Declaration of Condominium for Carriage Homes at Dunwoody Commons, a Condominium recorded in Official Records Book 6137, Pages 001, *et seq.*, of the Public Records of Seminole County, Florida, as amended and

supplemented.

5. On May 30, 2019, the Chapter 7 Trustee appointed to this case gave notice of recovery of assets and issued notice to all creditors and parties of interest.

4. A Proof of Claim was timely filed on behalf of Association (Claim No.: 4) on June 17, 2019, in the total amount of \$1,904.15.

5. On January 7, 2019, Trustee's Motion To (I) Approve Short Sale of Real Property Free and Clear of Liens, Claims, Encumbrances, and Interests Pursuant to 11 U.S.C. § 363(B), (F), and (M), (II) Surcharge Agreement Between Secured Lenders and the Estate, and (III) Other Relief was filed.

6. Association has prepared and attached hereto as composite Exhibit "A" an estimated payoff letter valid through February 9th, 2020; however, this amount should not be relied upon for closing as additional advances may come due prior to the date of the proposed sale. Association will provide an updated payoff at or near the scheduled closing of the sale.

7. Association does not object to the Trustee's Motion to the extent that any sale is subject to Creditor's lien and that Creditor's lien will be paid in full at the closing of said sale based upon an up to date payoff quote.

8. Association is filing its Objection in an abundance of caution, as Association wants it to be clear that it should not be compelled to participate in a sale of the property absent payment in full of Association's lien on the real property without being given the right to credit bid pursuant to 11 U.S.C. § 363(k).

9. Association reserves the right to supplement this response at or prior to any

hearing on this matter.

WHEREFORE, Carriage Homes at Dunwoody Commons Condominium Association, Inc., respectfully requests the Motion be conditionally granted, and any order granting the Motion shall include the terms identified herein; and for such other and further relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to File Late Proof of Claim was furnished by electronic transmission and/or U.S. Mail, postage prepaid, to the parties listed on the attached Schedule "A" this 13th day of January 2020.

/s/ Carlos R. Arias, Esq.

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SCHEDULE "A"

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